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10 Attorneys for Debtor in Possession

11 IN THE UNITED STATES BANKRUPTCY COURT

12 DISTRICT OF OREGON

13 PORTLAND DIVISION

14 In re

GREGORY JOHN TE VELDE,

15 Debtor in Possession.

16 Tax ID #: xxx-xx-7505  
Address: 5850 Avenue 160  
17 Tipton, CA 93272

18 CUSTOM FEED SERVICES, LLC, an  
Oregon limited liability company,

19 Plaintiff,

20 v.

21 GREGORY TEVELDE, aka GREGORY TE  
22 VELDE, a foreign individual, dba Willow  
Creek Dairy and Lost Valley Farm;  
23 RABOBANK, N.A., a national banking  
association; J.D. HEISKELL HOLDINGS,  
24 LLC, an Oregon limited liability company,  
OVERLAND STOCK YARDS, INC., a  
25 California corporation, and WESTERN AG  
IMPROVEMENTS, INC., an Oregon  
26 corporation,

Defendants.

CASE NO.

Chapter 11

Adv. No.:

**NOTICE OF REMOVAL OF LAWSUIT  
PENDING IN STATE COURT TO  
BANKRUPTCY COURT (28 U.S.C §  
1452)**

NOTICE OF REMOVAL OF LAWSUIT  
PENDING IN STATE COURT TO  
BANKRUPTCY COURT

- 1 -

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Notice of Removal-Federal.071718.cs

1 TO THE CLERK OF THE ABOVE ENTITLED COURT, AND TO ALL PARTIES  
2 IN THE CIVIL ACTION IDENTIFIED HEREIN AND HEREBY REMOVED, THE CLERK  
3 OF THE CIRCUIT COURT IN AND FOR THE COUNTY OF YAMHILL, OREGON:

4 PLEASE TAKE NOTICE that Debtor GREGORY JOHN TE VELDE ("Debtor"), as  
5 Defendant in a case brought against it in the Circuit Court of Oregon in and for the  
6 County of Yamhill (the "Circuit Court"), does hereby remove the action filed in the Circuit  
7 Court, identified with more particularity below, to the United States Bankruptcy Court for  
8 the District of Oregon, Portland Division (the "Bankruptcy Court").

9 1. This Notice of Removal ("Notice") is made in accordance with 28 U.S.C. §§  
10 1334(b), 1452(a), 157, and BR 9027 and is based on this Notice and the Exhibit(s)  
11 attached hereto and on all of the records and documents filed in the above-entitled  
12 matter.

13 2. On April 26, 2018, Debtor commenced proceedings in the United  
14 States Bankruptcy Court for the Eastern District of California, Fresno Division, pursuant  
15 to Chapter 11 of the Bankruptcy Code, as Case No. 18-11651 (the "Bankruptcy Case").

16 3. On February 22, 2018, prior to Debtor's Bankruptcy Case, Plaintiff  
17 Custom Feed Services, LLC ("CFS") initiated a civil lawsuit against Debtor and other  
18 defendants styled *Custom Feed Services, LLC v. Gregory TeVelde et. Al.*, Case No.  
19 18CV06230, Yamhill County Circuit Court (the "Lawsuit").

20 4. By virtue of the Lawsuit, CFS asserts claims for lien foreclosure, breach of  
21 contract, Account, and Account stated against Defendants.

22 5. 28 U.S.C. § 1452(a) permits removal of any claim or cause of action to the  
23 district court for the district where such civil action is pending provided that the such  
24 district court has jurisdiction of such claim or cause of action under 28 U.S.C. § 1334.

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1        6.        Section 1334(b) provides that district courts have jurisdiction of all civil  
2 proceedings related to cases under Title 11. Debtor's Bankruptcy Case arises under  
3 Title 11 and the Lawsuit is related to the Bankruptcy Case for the reasons described  
4 more fully below.

5        7.        The test for whether a civil proceeding is related under Section 1334(b) is  
6 relatively straight forward. "The usual articulation of the test for determining whether a  
7 civil proceeding is related to bankruptcy is whether the outcome of the proceeding could  
8 conceivably have any effect on the estate being administered in bankruptcy." In re  
9 Fietz, 852 F.2d 455, 457 (9<sup>th</sup> Cir. 1988), quoting Pacor v. Higgins, 743 F.2d 984 (3d Cir.  
10 1984) (overruled on other grounds by Things Remembered, Inc. v. Petracca, 516 U.S.  
11 124 (1995)). The Lawsuit meets this test because the claims it encompasses will have  
12 a substantial impact on Debtor's ability to fund a Chapter 11 plan.

13        8.        The Bankruptcy Case and the Lawsuit are related because the claims  
14 encompassed by the Lawsuit have a clear and direct impact on the bankruptcy estate  
15 and will therefore have a significant effect on the administration of the estate. For  
16 example, determination of the Lawsuit necessarily involves the allowance or  
17 disallowance of CFS' claims against Debtor. Further, if CFS is allowed to foreclose its  
18 lien and sell the Oregon dairy, it would greatly impact the administration of Debtor's  
19 bankruptcy estate.

20        9.        Because the Lawsuit and the Bankruptcy Case are related, pursuant to 28  
21 U.S.C. § 1334(b), the United States District Court for the District of Oregon (the "District  
22 Court") has jurisdiction over each and every cause of action asserted in the Lawsuit.

23        10.       Further, under 28 U.S.C. § 157 and the general reference of the District  
24 Court with respect to bankruptcy matters under LR-2100, the Bankruptcy Court has  
25 jurisdiction of the Lawsuit pursuant to 28 U.S.C. § 1334(b).

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1 11. The Lawsuit is not a proceeding before the United States Tax Court or a  
2 civil action by a governmental unit to enforce such governmental unit's police or  
3 regulatory power.

4 12. Bankruptcy Rule 9027 mandates this Notice be filed with the Bankruptcy  
5 Court because it is the Court located in the district where the matter is pending.

6 13. Upon removal, the action encompassed by the Lawsuit is a core  
7 proceeding pursuant to 28 U.S.C. § 157(b)(2), and Debtor consents to entry of final  
8 orders or judgment by the Bankruptcy Judge.

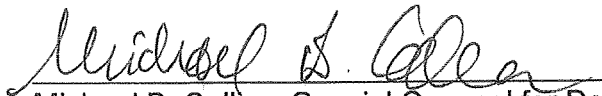
9 14. Attached as Exhibit "A" to this Notice are copies of all process, pleadings  
10 (as narrowly defined by F.R.C.P. Rule 7(a)) and minute entries and orders filed prior to  
11 removal.

12 15. Promptly after the filing hereof, Debtor's counsel shall file a Notice of  
13 Removal with the Clerk of the Circuit Court of the State of Oregon, County of Yamhill.

14 16. Debtor will be filing a motion to transfer venue to the U.S. Bankruptcy  
15 Court for the Eastern District of California, Fresno Division, where Debtor's Bankruptcy  
16 Case is currently pending.

17 Dated: July 20, 2018

COLLINS & COLLINS LLP

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19 Michael B. Collins, Special Counsel for Debtor  
20 in Possession Gregory John te Velde  
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